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SUBJECT: EU INSTITUTIONS AGREE ON GALILEO GOVERNANCE; FINAL
POLITICAL HURDLE PASSED-RESPONSE TO C-WP7-02359

¶1. (SBU) Summary: On April 22, the European Parliament endorsed a compromise text on the governance and financing of the EU's Galileo global satellite navigation system (GNSS). The adoption of the Regulation, which already received the backing of the EU member states at the Transport, Telecommunications and Energy Council of April 7, has removed the last political obstacle to the deployment of Galileo. The EU's GNSS will be jointly managed by the European Commission, the European GNSS Supervisory Authority (GSA) and the European Space Agency (ESA). Its deployment phase is scheduled to run until 2013, at which time, the true exploitation of the system is expected to commence. The first invitations to tender for the establishment of Galileo's infrastructure (including satellites and ground infrastructure) are expected to be issued by summer, followed by a review of bids and contract awards in December. The compromise text provides guidance on:

- Overall governance of the program, defining tasks for the Commission, GSA, and ESA;
- Future structure of the GSA, which will include a reduction in staff to be moved to the Commission;
- Creation of the Galileo Inter-institutional Panel (GIP) with representatives from the Council, Parliament, and Commission to perform joint oversight of the program; and
- Procurement rules, defining the six main work packages and requirements for subcontractors. End Summary.

Definition of Galileo Services

¶2. (SBU) Galileo, Europe's attempt to build a competitor to the U.S. Global Positioning System (GPS) is designed to deliver five separate signals aimed at different user groups. The Commission is expected to charge user fees for several of the signals, a key difference from GPS, which provides free access to all users.

- The open service will be free to all users and is intended for high-volume satellite navigation applications, such as personal and automotive satellite navigation devices. Resulting from an agreement in July, 2007 between the U.S. and the EU under the auspices of the GPS-Galileo Agreement, the open service will be fully interoperable with the open signal on the next generation GPS satellites.

- The commercial service, which is expected to carry a

usage fee, is to be used for commercial applications where improved performance over the open service is required.

-- The safety of life service is aimed at safety critical users, for example trains, maritime, and aircraft, for which stringent performance levels and guarantees of signal integrity are required.

-- The public regulated service (PRS), using strong encrypted signals and restricted to government authorized users, is intended for sensitive applications. It is expected that this signal will be used in security and military operations. A Commission Communication is expected to be released detailing the specifics of PRS later this summer. (Comment: Though this likely is the signal to be used for military operations, the Commission stands by its commitment to develop a system for civil users. As of now, there does not appear to be any direct inclusion of military requirements into the design, and that it will be up to individual Member States to develop Galileo applications for their militaries. This could change in the future as the EU looks for more control of security and military roles in Europe. Please see the Brussels cable to be released shortly on European Parliament recommendations for the use of space assets in the European Security and Defense Policy. End comment.)

-- The search and rescue service, part of the international SAR satellite system (COSPAS-SARSAT) is designed to detect emergency signals transmitted by beacons and providing location data to rescue personnel.

General Framework for Governance

13. (U) The public governance for Galileo will be performed,

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under a strict division of responsibilities, by the EU, represented by the Commission; the European GNSS Supervisory Authority (GSA); and the European Space Agency (ESA). The Commission is responsible for overall management, which includes financial and technical audits, risk management, and milestones for implementation of the program. Additionally, the Commission is responsible for all questions related to the security of the systems, including oversight and integration of security requirements in the overall program. GSA will work under the supervision of the Commission, in a reduced form from its current organization. ESA will, according to an agreement to be conducted in the coming months with the Commission, have responsibility for the management of procurement, specifically the implementation of the deployment phase, delivery of procurement tenders, and completion of contracts with the private sector.

GNSS Supervisory Authority

14. (U) Under the provisions of the agreement, GSA will continue to exist and act under the supervision of the Commission. GSA was originally created to act as the oversight body between the European Community and industry during the existence of the public-private partnership. However, since the EU took full control of the program, the various institutions have debated whether or not GSA should continue to exist as an entity, and if so, what should the new functions entail. Under the agreement, GSA will be responsible for:

-- Galileo security, to include the implementation of security procedures and system security audits;

-- Preparation of the commercialization of Galileo, to include market analysis; and

-- Other tasks entrusted to it by the Commission, which could include promotion of Galileo applications and services

15. (SBU) Officials from DG Energy and Transport (TREN), the Commission's home for the Galileo Unit, indicated to USEU

EconOff that GSA will be cut approximately in half over time.

As of now, GSA employs approximately 45 staff, but this number will slowly be reduced to approximately 20 to handle the above tasks. The other 25, primarily engineers and technical staff, will be transitioned over to the Commission under the Galileo unit to handle implementation of the program. As of now, there are several GSA employees sitting in Commission spaces and performing Commission functions without having been officially transferred. The transfer of GSA employees and the expected hiring of several new staff likely will mean that within DG TREN, the Galileo unit will be elevated to the rank of a Directorate with a single Director responsible only for Galileo.

Galileo Inter-institutional Panel

16. (SBU) As part of the process, the European Parliament in particular has demanded more control and oversight of the Galileo program. However, many in the Commission and the Council have been very wary of providing too much control to Parliamentarians, most of whom have little technical expertise, and as such, oversight of all technical details could substantially slow the process or lead to irrational decisions. The compromise that was reached was the formation of the Galileo Inter-institutional Panel (GIP). The Commission is required to take into account the views expressed by the GIP, though it is not clear how much authority the GIP will have over Commission decisions. Three Council member, likely to be Member State Transport Ministers; three Parliamentarians; and one Commission member will make up the seven person oversight panel. Though it has not yet been decided who will serve on the GIP, DG TREN representatives have ensured USEU EconOff that the U.S. will be notified as soon as possible, to allow for the possibility of meetings with senior U.S. GPS officials. The role of the GIP is to meet up to four times a year to follow closely:
-- Progress on the implementation of GNSS programs, in

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particular with regard to implementation of procurement and contract agreements;

- International agreements with third countries;
- Preparation of satellite navigation markets;
- Effectiveness of governance arrangements; and
- Annual review of the work program.

Export Control of Galileo Components

17. (SBU) With control of the overall program, the Commission is looking for ways to exert its influence over export control aspects of the Galileo technological development. Several Commission members have indicated they still are frustrated by the sale of rubidium clocks from Swiss company Temex to China. The Commission has competence of the management of dual-use regulations, most of which are structured exactly after those of Wassenaar, and which are then binding to the member states. As many of the components of Galileo could be considered dual-use, these could fall under existing regulations. However, since DG TREN is concerned that this has very little actual strength, it is taking two further steps:

- During the current revision of the EU's export control process, the Galileo program is working to add Galileo-specific items. Additionally, the EU is making strides to develop coherency among the Member States, processes so that consistent rules are applied across Europe.

In the process, using sanctions-based inspiration, the EU is developing lists of countries which there are substantial restrictions to export. DG TREN hopes to ensure that China is included in these lists, providing an impediment to technology transfer.

- During the Galileo contract process, the Commission

intends to enter language into the contracts to place strict requirements on the companies related to the sale of components developed specifically for the Galileo program.

¶18. (SBU) A DG TREN representative indicated to USEU EconOff that the Commission is already speaking with Switzerland and Norway, members of ESA but not of the EU, to make clear what rules will be applied to their companies during the contracting process. The goal is to ensure that technology is not transferred outside of Europe, specifically to China, that could place Europe at a disadvantage in GNSS development.

Galileo Procurement

¶19. (U) According to the agreement, Galileo procurement will be applied according to the EU's public procurement rules, which give equal opportunity to all bidders, as well as opportunities for third country involvement. Specifically in the case of Galileo, the following rules will be applied:

- Infrastructure will be split into six main work packages--system engineering support, ground mission infrastructure completion, ground control infrastructure completion, satellites, launchers, and operations; as well as a number of additional work packages;
- Competitive tendering of all packages, and in the case of the six main packages, one bidder may bid for the role of prime contractor for a maximum of two of the six main work packages. Note that only European companies can bid for the role of prime contractor on the six main work packages;
- Satisfy the EU's requirement for small and medium enterprise (SME) involvement; least 40% of the activities to be subcontracted must be performed by companies which are not prime contractors of any of the six main work packages; and
- Use of dual sourcing wherever appropriate to avoid long-term dependence on single suppliers.

¶10. (SBU) The time frame for contracting still is fluid, but initial calls for tender could be released as early as the first week of May to as late as the end of June. This will take place in two phases, with the first phase calling for an expression of interest from companies planning to bid on the main work packages, and the second to take place in the early

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fall, the official call for proposals. These calls are expected to close shortly thereafter, with decisions made in December, 2008. (Comment: At least one DG-TREN representative is pessimistic that any major decisions will be made this year, and that he expects the time table to slip into early 2009. End comment.)

¶11. (SBU) The procurement rules, combined with Commission intentions, provide several opportunities for U.S. companies to be involved in the process. The SME requirement does not specifically call for the involvement of small and medium enterprises, only that companies which have not been named prime contractor for one of the six main work areas be involved in the subcontracting responsibilities. As only the prime contractor roles, as well as those that have a security component, are limited to European companies, third country companies can become part of consortia in the bidding process. This allows for large U.S. companies to act as subcontractors and count in favor of the 40% threshold, a possible benefit to European bidders during the tendering process.

¶12. (SBU) Under a specific heading, that of launchers, DG TREN representatives have indicated an interest in using U.S. launch vehicles to fulfill some of the satellite launches. This is primarily security related. According to DG TREN, given the existing U.S.-EU Security Agreement, there are no security barriers to allowing Galileo satellites to be launched from U.S. soil. This does appear to be a concern in the cases of Russia and China, where Europe would be required

to give up control of the satellite for a period of time, and given the sensitive nature of some of the components, this is not a favorable scenario.

Third Country Relationships

¶13. (SBU) With the new governance structure, the relationship with third countries has the potential to change. As Galileo becomes more of a reality, it is clear from discussions with Commission representatives how important it has become to Europe to deploy a full constellation, particularly ahead of China's Compass system, but possibly also before Russia fully replenishes its own Glonass system. Europe is very concerned that if it falls to fourth in the race to deploy a full GNSS constellation, it will lose some of the strategic and economic benefits it hopes to gain. To that end, DG TREN officials have explained that the relationship with China is quickly changing, as Europe now views China as a competitor. However, as contracts still exist between GSA and China, there will still be some level of cooperation, most notably in the form of Galileo applications using the open signal, but neither in the development of the satellites themselves nor in the use of encrypted signals. China will also not be permitted to have engineers co-located in GSA offices. (Note: Israel's role, from its involvement in the Growing Galileo conference held last fall, appears to be similar to China's in the development of applications to Galileo open signals. End note.) As mentioned earlier, the Commission is very concerned that any technology transfer, such as the Temex clocks sold to China, will enable China to make strides in its own system, possibly to the detriment of Galileo in the long-term. (Comment: Temex has explained to the Commission that the clocks it sold to China were of a "degraded quality," but there has been no explanation of what that means. The Commission is not convinced that the clocks are anything but very close to full quality. End comment.)

¶14. (SBU) Now that the negotiations among the EU institutions have been completed, the Commission is prepared to continue cooperative efforts with the U.S. Most notably, the EU is most interested in discussions pertaining to the GPS-Galileo Cooperation Agreement, up for review in 2008. In response to questions about the ratification of the agreement by the individual Member States, DG TREN explained that the Council posed a question in March to each Member State asking if the EU can enforce provisional application of the agreement, even though the Netherlands, Belgium, the UK, Ireland, and Cyprus

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have not formally ratified. The Commission has not yet received a response, but should provide a written response to the U.S. when all member capitols have responded.

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